

Docket No.: 1009-0119PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Andrew John EASTON et al.

Application No.: 10/599,904

Confirmation No.: 6366

Filed: October 12, 2006

Art Unit: N/A

For: VIRAL ASSAY

Examiner: Not Yet Assigned

INFORMATION DISCLOSURE STATEMENT
(SUBMISSION AFTER FILING OF AN APPLICATION BUT BEFORE FINAL
REJECTION OR NOTICE OF ALLOWANCE OR CONCURRENTLY WITH A RULE
1.114 RCE APPLICATION)

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §§ 1.97 and 1.98, applicant(s) hereby submit(s) an Information Disclosure Statement for consideration by the Examiner.

I. LIST OF PATENTS, PUBLICATIONS OR OTHER INFORMATION

The patents, publications, or other information submitted for consideration by the Office are listed on the PTO-SB08(s), attached hereto.

II. COPIES

- ☒ a. Copies of cited U.S. patents and patent application publications are not included.
Copies of foreign patent documents and non-patent literature are included.

☐ b. Some or all of the documents listed on the PTO-SB08 are not enclosed because they were cited in the International Search Report and copies should already be in the PTO file. If copies are needed, please contact the undersigned.

☐ c. REFERENCES PREVIOUSLY CITED OR SUBMITTED - Pursuant to 37 C.F.R. §1.98(d), consideration of information listed on the PTO-SB08 form(s) is requested since any patents, publications, or other information which are listed on the PTO-SB08 form(s) but for which copies are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Appl. No(s) and U.S. Filing Date

PCT/GB2005/001431 filed April 14, 2005

III. CONCISE EXPLANATION OF THE RELEVANCE

(check at least one box)

☒ a. DOCUMENTS IN THE ENGLISH LANGUAGE - The patents, publications, or other information listed on the attached PTO SB08 are in the English language and therefore, do not require a statement of relevancy.

☐ b. DOCUMENTS NOT IN THE ENGLISH LANGUAGE - A concise explanation of the relevance of all patents, publications, or other information listed that is not in the English language is as follows:

☒ c. ENGLISH LANGUAGE SEARCH REPORT - An English language version of the search report or action that indicates the degree of relevance found by the foreign office is attached, thereby satisfying the requirement for a concise explanation. See MPEP 609(III)(A)(3).

☐ d. OTHER - The following additional information is provided for the Examiner's consideration.

IV. FEES (check one box)

- ☐ a. This Information Disclosure Statement is being filed concurrently with the filing of a new patent application; therefore, no fee is required.
- ☐ b. This Information Disclosure Statement is being filed concurrent with the filing of a continuation-in-part, continuation, or divisional patent application; therefore, no fee is required.
- ☐ c. This Information Disclosure Statement is being filed within three months of the filing date of a national application (37 C.F.R. § 1.97(b)(1)). No fee or statement is required. *(This section is not to be used with RCE's.)*
- ☐ d. This Information Disclosure Statement is being filed within three months of the date of entry of the national stage as set forth in § 1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or statement is required.
- ☐ e. This Information Disclosure Statement is being filed concurrently with the filing of a Request for Continued Examination under § 1.114 (37 C.F.R. § 1.97(b)(4)). No fee or statement is required.
- ☒ f. This Information Disclosure Statement is being filed before the mailing date of a first Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or statement is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the statement under 37 C.F.R. § 1.97(e) below, or, if no statement has been made, charge our deposit account for the fee as required by 37 C.F.R. § 1.17(p).
- ☐ g. This Information Disclosure Statement is being filed before the mailing date of a Final Office Action under 37 C.F.R. § 1.113 (See 37 C.F.R. § 1.97(c)(1)) or before the mailing date of a Notice of Allowance under 37 C.F.R. § 1.311 (See 37 C.F.R. § 1.97(c)(2)).
- ☐ No statement; therefore, a fee as required by 37 C.F.R. § 1.17(p) is attached.

or

☐ See the statement below. No fee is required.

V. STATEMENT UNDER 37 C.F.R. § 1.97(e)

(check only one box)

The undersigned hereby states that:

☐ a. Each item of information contained in the IDS was first cited in any communication from a foreign Patent Office in a counterpart foreign application not more than 30 days prior to the filing of this IDS; or

☐ b. Each item of information contained in the IDS was first cited in any communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS; or

☐ c. No item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of the IDS.

☐ d. Some of the items of information were cited in a communication from a foreign Patent Office. As to this information, the undersigned states that each item of information contained in the IDS was first cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby states that no item of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application and, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

VI. PAYMENT OF FEES (check one box)

☐ The required fee is listed on the attached Fee Transmittal.

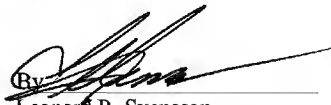
☒ No fee is required.

If the Examiner has any questions concerning this IDS, he/she is requested to contact the undersigned. If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule and charge the appropriate fee to Deposit Account No. 02-2448.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: February 15, 2007

Respectfully submitted,

By 

Leonard R. Svensson
Registration No.: 30,330
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant

Attachment(s):

- ☒ PTO-SB08
- ☒ Documents
- ☒ Foreign Search Report
- ☐ Fee
- ☐ Other:

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Application Number	10/599,904-Conf. #6366
				Filing Date	October 12, 2006
				First Named Inventor	Andrew John EASTON
				Art Unit	N/A
				Examiner Name	Not Yet Assigned
Sheet	1	of	3	Attorney Docket Number	1009-0119PUS1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)	MM-DD-YYYY		
	AA*	US-6,270,958	08-07-2001	Olivo et al.	
	AB*	US-6,376,171	04-23-2002	Hardy et al.	
	AC*	US-6,399,354	06-04-2002	Knipe et al.	
	AD*	US-20020151033-A1	10-17-2002	Knipe et al.	
	AE*	US-20030152912-A1	08-14-2003	Dyall et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁴
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)	MM-DD-YYYY			
	BA	WO-03/063783	08-07-2003	Apath Lic		
	BB	WO-00/40760	07-13-2000	Univ Washington et al.		

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. * CITE NO.: Those application(s) which are marked with an asterisk (*) next to the Cite No. are not supplied (under 37 CFR 1.98(a)(2)(iii)) because that application was filed after June 30, 2003 or is available in the IFW. ¹ Applicant's unique citation designation number (optional). ² See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST-3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST-16 if possible. ⁶ Applicant to place a check mark here if English language Translation is attached.

Examiner Signature	Date Considered
-----------------------	--------------------

Substitute for form 1449/PTO		Complete If Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Application Number	10/599,904-Conf. #6366
		Filing Date	October 12, 2006
		First Named Inventor	Andrew John EASTON
		Art Unit	N/A
		Examiner Name	Not Yet Assigned
Sheet	2	of	3
		Attorney Docket Number	1009-0119PUS1

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.†	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	†2
	CA	RANDHAWA, J. S. et al., "Rescue of synthetic minireplicons establishes the absence of the NS1 and NS2 genes from avian pneumovirus," J. VIROL., 1997, Vol. 71, No. 12, Pgs. 9849-9854.	
	CB	MARRIOTT, A. C. et al., "Fidelity of leader and trailer sequence usage by the respiratory syncytial virus and avian pneumovirus replication complexes," J. VIROL., 2001, Vol. 75, No. 14, Pgs. 6265-6272.	
	CC	CONZELMANN, K. et al., "Nonsegmented negative-strand RNA viruses: genetic and manipulation of viral genomes," ANNU. REV. GENET., 1998, Vol. 32, Pgs. 123-162.	
	CD	KAWANA, F. et al., "Inhibitory effects of antiviral compounds on respiratory syncytial virus replication in vitro," ANTIMICROBIAL AGENTS AND CHEMOTHERAPY, August 1987, Vol. 31, No. 8, Pgs. 1225-1230.	
	CE	DIMOCK, K. et al., "Rescue of synthetic analogs of genomic RNA and replicative-intermediate RNA of human parainfluenza virus type 3," JOURNAL OF VIROLOGY, May 1993, Vol. 67, No. 5, Pgs. 2772-2778.	
	CF	VITKO, V. et al., "Phenotypic silencing of cytoplasmic genes using sequence-specific double-stranded short interfering RNA and its application in the reverse genetics of wild type negative-strand RNA viruses," BMC MICROBIOLOGY, 2001, Vol. 1, No. 34.	
	CG	SCHNELL, M. J. et al., "Infectious rabies viruses from cloned cDNA," THE EMBO JOURNAL, 1994, Vol. 13, No. 18, Pgs. 4195-4203.	
	CH	MARRIOTT, A. C. et al., "Reverse genetics of the paramyxoviridae," ADVANCES IN VIRUS RESEARCH, 1999, Vol. 53, Pgs. 321-339.	
	CI	AGAPOV, E. V. et al., "Noncytopathic sindbis virus RNA vectors for heterologous gene expression," PROC. NATL. ACAD. SCI., USA, October 1998, Vol. 95, Pgs. 12989-12994.	
	CJ	DICKER, I. B. et al., "Herpes simplex type 1: lacZ recombinant viruses. II. Microtiter plate-based colorimetric assays for the discovery of new antih herpes agents and the points at which such agents disrupt the viral replication cycle," ANTIVIRAL RESEARCH, 1995, Vol. 28, Pgs. 213-224.	
	CK	LO, M. K. et al., "Potential high-throughput assay for screening inhibitors of west nile virus replication," JOURNAL OF VIROLOGY, December 2003, Vol. 77, No. 23, Pgs. 12901-12906.	
	CL	DICKER, I. B. et al., "Herpes simplex type 1: lacZ recombinant viruses. I. characterization and application to defining the mechanisms of action of known antih herpes agents," ANTIVIRAL RESEARCH, 1995, Vol. 28, Pgs. 191-212.	
	CM	COLLINS, P. L. et al., "Rescue of synthetic analogs of respiratory syncytial genomic RNA and effect of truncations and mutations on the expression of a foreign reporter gene," PROC. NATL. ACAD. SCI., USA, November 1991, Vol. 88, Pgs. 9663-9667.	
	CN	FROLOV, I. et al., "Alphavirus-based expression vector: strategies and applications," PROC. NATL. ACAD. SCI., USA, October 1996, Vol. 93, Pgs. 11371-11377.	
	CO	OLIVO, P. D. et al., "Detection and quantitation of human respiratory syncytial virus (RSV) using minigenome cDNA and a sindbis virus replicon: a prototype assay for negative-strand RNA viruses," VIROLOGY, 1998, Vol. 251, Pgs. 198-205.	
	CP	TNEG, M. N. et al., "Identification of the respiratory syncytial virus proteins required for formation and passage of helper-dependent infectious particles," JOURNAL OF VIROLOGY, July 1998, Vol. 72, No. 7, Pgs. 5707-5716.	
	CQ	PARK, K. H. et al., "Rescue of a foreign gene by sendai virus," PROC. NATL. ACAD. SCI.,	

Examiner Signature	Date Considered
--------------------	-----------------

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>				Complete if Known	
				Application Number	10/599,904-Conf. #6366
				Filing Date	October 12, 2006
				First Named Inventor	Andrew John EASTON
				Art Unit	N/A
				Examiner Name	Not Yet Assigned
Sheet	3	of	3	Attorney Docket Number	1009-0119PUS1

		USA, July 1991, Vol. 88, Pgs. 5537-5541.	
	CR	MARRIOTT, A. C. et al., "Reverse genetics of the paramyxoviridae," ADVANCES IN VIRUS RESEARCH, 1999, Vol. 53, Pgs. 321-340.	
	CS	WANTANABE, W. et al., "MTT colorimetric assay system for the screening of anti-orthomyxo- and anti-paramyxoviral agents," JOURNAL OF VIROLOGICAL METHODS, Vol. 48, 1994, Pgs. 257-265.	
	CT	LUTZ, Andrew et al., "Virus-inducible reporter genes as a tool for detecting and quantifying influenza A virus replication," JOURNAL OF VIROLOGICAL METHODS, Vol. 126, 2005, Pgs. 13-20.	
	CU	PELET, Thierry et al., "High throughput screening assay for negative single stranded RNA virus polymerase inhibitors," JOURNAL OF VIROLOGICAL METHODS, Vol. 128, 2005, Pgs. 29-36.	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
--------------------	--	-----------------	--